

Exhibit

23

SMITH HIMMELMANN
ATTORNEYS AT LAW • A LAW CORPORATION

DAVIES PACIFIC CENTER-SUITE 909
841 BISHOP STREET, HONOLULU, HAWAII 96813
TELEPHONE: 808.523.5050
FAX: 808.538.1382 or 815.377.1117
E-MAIL: shlaw@flex.com

April 24, 2002

Via Fax: 474-3798 [@<08>]

Hazel Wong, Labor Advisor (NOICP.1B)
Federal Fire Department
COMNAVRCBG PEARL HARBOR HI
4300 Radford Drive
Honolulu, HI 96818-3298

Re: Milton Kaopua and FOIA Request

Dear Ms. Wong:

A. This letter is to memorialize my understanding of our conversation on Thursday, April 18, 2002, in which I asked you for a report as to what corrective action, if any, the Agency was taking with respect to the death threat against Mr. Kaopua. You indicated "management was taking action," but would not disclose who, what, when, or why, indicated that Mr. Kaopua (and hence his doctor) would not be so informed, and that there would be no public statement with respect to this matter. Is my understanding correct?

B. We now include in our inquiry: what action management is taking with respect to Mr. Kaopua's prior disclosures of apparent inappropriate if not illegal activity involving Capt. Abad and higher level authority in personally raising and selling pigs on government property, which pigs apparently physically damaged government property (and may have involved the personal time of other government employees?); the inappropriate personal, non-government use, and interference with the proper government use, of ice making facilities; among others?

So, we also ask for your response with respect to Mr. Kaopua's prior ongoing disclosures?

C. In this same regard, this letter is to request, pursuant to the Freedom of Information Act, copies of all reports and information which document (1) such disclosures and complaints of Mr. Kaopua, (2) the threat against him made by Mr. Abad, including (3) Navy police reports, (4) NCIS reports and (5) all other records and files contained within your command, within the Federal Fire Department command and/or within other Navy commands, being the Fire Department's landlord. If you need further information to respond to this request, please let me know. If this request needs to be sent and responded to by any different authorities, please forward this request to those authorities and provide us with a copy of your transmittal(s).

We look forward to your prompt and statutorily timely response with respect to these information request matters (A-C).

Specializing in Representing Federal Employees

242

ENCLOSURE (17-1)

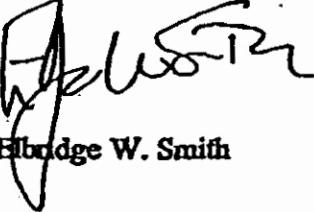
SMITH HIMMELMANN
ATTORNEYS AT LAW • A LAW CORPORATION

April 24, 2002
Page 2

D. Mr. Kaopua remains partially dysfunctional and totally unable to work as a result of the threat against him, the apparent reprisals, including transfer of him away from his work station and men (when it would seem that only the perpetrator needed to be moved), the failure of the Agency to take prompt, public corrective action or at least its failure to advise Mr. Kaopua, his representative and physicians of its remedial actions, and of the failure of the Agency to demonstrate any immediate efforts at meaningful reasonable accommodation, other than to facilitate minimal advanced sick leave and a barely mediocre response to his request for the leave transfer program.

From our meetings and discussions with Mr. Kaopua's treating and evaluating physicians, it is apparent to us that a combination of appropriate therapeutic intervention, including work place accommodation would both speed his recovery and his return to work. Is the Agency interested in such?

Most sincerely yours,
SMITH HIMMELMANN



Elbridge W. Smith

EWS:ma

cc: Shepard Ginandes, M.D.
fc: Robert Davé, Ph.D.
Jamic Neal, RN - OWCP Assigned Nurse

243

Specializing in Representing Federal Employees

ENCLOSURE (17-2)



DEPARTMENT OF THE NAVY
HUMAN RESOURCES OFFICE
COMMANDER
NAVY REGION HAWAII
517 RUSSELL AVENUE
PEARL HARBOR, HAWAII 96860-4884

12630
3 May 02

CERTIFIED MAIL: 7001 2510 0001 5472 2388

Mr. Elbridge Smith
Smith Himmelmann
Davies Pacific Center Suite 909
841 Bishop Street
Honolulu, HI 96813

Dear Mr. Smith:

This replies to your letter of 24 April 2002 to Ms. Hazel Wong, Labor Advisor. Ms. Wong is on leave and is scheduled to return to work on 13 May 2002.

Your letter requested certain information under the Freedom of Information Act (FOIA). At Commander, Navy Region Hawaii, the Staff Judge Advocate is responsible for responding to FOIA requests. I have forwarded your request to that office and you should address any further correspondence concerning that request to:

Staff Judge Advocate
N00JA
Commander, Navy Region Hawaii
517 Russell Avenue, Suite 110
Pearl Harbor, HI 96860-4884

Your letter ended by stating that it was "apparent" to you that "a combination of therapeutic intervention, including work place accommodation" would speed Mr. Kaopua's recovery and return to work, and asked if the Agency were "interested in such." Your letter did not, however, explain what you meant by "therapeutic intervention" and failed to specify the "work place accommodation" you had in mind. The Agency would be in a better position to answer your question if you provided that information.

Sincerely,

PETER PAPPALARDO
Head, Labor Relations

Copy to:
CNR Code N00JA

244

ENCLOSURE (18)

A FAX MESSAGE FROM:

SMITH HIMMELMANN
ATTORNEYS AT LAW • A LAW CORPORATION

DAVIES PACIFIC CENTER, SUITE 909
841 BISHOP STREET, HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-5050
E-MAIL: shlaw@flex.com
Reply FAX Number: 808-538-1382

DATE: July 18, 2002

TO: Hazel E. Wong, Labor Advisor
OF: COMNAVREG - Hawaii (Code N01CP.1B, HRO)
FAX Number: 474-3598 @ <08>

FROM: Elbridge W. Smith

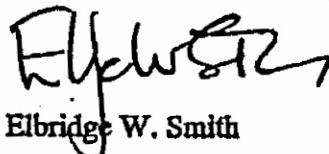
RE: Milton K. Kaopua, Supv. Firefighter (Capt)

Thank you for responding to our question regarding the HBO responsibility for the Federal Fire Dept. by leaving me the voice mail message. We will initiate that contact.

Your message also noted that the last doctor's note you have from Dr. Ginandes says that Kaopua is off work until September 1. Therefore, you don't understand the failure to accommodate allegation and ask what accommodation does he want? My copy of Dr. Ginandes last note says he will be off until "at least 9-1-02." Dr. Ginandes has repeatedly and consistently said, as has Dr. Davé, and has OWCP nurse Neill, that until Mr. Kaopua has been assured that his work environment is safe he cannot successfully return to work, which should then be to his usual duty station in Lualualei. Thus his impairment and disability continue by both the action and inaction of the Fire Department rather than resolve.

Both doctors and the OWCP have asked me what corrective and accommodating actions the Department is taking or at least offering given the accepted facts of his injury and his diagnosis (e.g., what appropriate resolution to the ongoing threat of violence, what corrective action for a death threat by a co-worker in possession of an illegal firearm, what corrective action for the whistleblower disclosures and perceived retaliations?) and the agency gives no reply to me to give to them, nor does it give any directly to Mr. Kaopua, the doctors, or OWCP.

Most sincerely yours,
SMITH HIMMELMANN


Elbridge W. Smith

cc: Milton Kaopua
Shepard Ginandes, MD
fc: Dr. Robert Davé, PhD
Jamie Neill, RN (OWCP)

245

Specializing in Representing Federal Employees

ENCLOSURE (20)

FEDERAL FIRE DEPARTMENT
850 TICONDEROGA ST, STE 106
PEARL HARBOR, HAWAII 96860-5102

July 26, 2002

Mr. Elbridge W. Smith, Esq.
841 Bishop Street, Suite 909
Honolulu, HI 86813

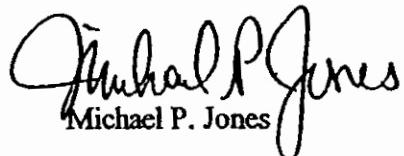
Dear Mr. Smith:

This is in regard to your letter of July 18, 2002, addressed to Ms. Hazel Wong, Labor Advisor, concerning corrective and accommodating action for Mr. Milton Kaopua, Supervisory Firefighter, to return to work.

Prior to receiving your letter of July 18, the Federal Fire Department (FFD) was not aware that Mr. Kaopua was requesting any accommodation to return to work, since Mr. Kaopua had filed a worker's compensation claim and the two medical documents he submitted to the FFD did not provide any accommodation request. Specifically, the FFD received Dr. Robert Davé's letter of January 25, 2002, with Mr. Kaopua's leave transfer request, and a medical certificate from Dr. Shepard Ginandes of June 13, 2002. Also, by letter of May 3, 2002 from the Head of Labor Relations, you were asked to provide specific information about "work place accommodation," as mentioned in your letter of April 24, 2002, but we received no response.

Despite the miscommunication, the FFD would like to have Mr. Kaopua return to work as soon as possible. Therefore, by copy of this letter, Mr. Kaopua is assured that the Federal Fire Department has taken steps to ensure his safety by removing Mr. R. Abad from the Lualualei Fire Station, so there will be no contact with Mr. Abad. Further, upon Mr. Kaopua's release to return to work, he may report for duty at the Lualualei Fire Station, where he was previously assigned before his absence from work.

Sincerely,



Michael P. Jones

Copy to:

Mr. Milton Kaopua
Dr. Shepard Ginandes, MD
Dr. Robert Davé, PhD
Ms. Jamie Neill, RN (OWCP)
Ms. Hazel Wong, Labor Advisor

244

ENCLOSURE (2)